REMARKS

I. Summary of Office Action

Claims 1-48 were pending in this application.

Claims 1-48 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Walker et al. U.S. Patent No. 6,110,041 (hereinafter "Walker").

II. Summary of Telephonic Interview

Applicants wish to thank the Examiner for the courtesies extended during the telephonic interview conducted on June 3, 2004 with the undersigned and Adam M. Saltzman (Reg. No. 52,188).

Details of the interview will appear in the discussion below where appropriate. Generally, the Examiner contended during the interview that Walker suggests a first type of wagering platform and a second type of wagering platform, where the first type of wagering platform and the second type of wagering platform are different. Applicants respectfully disagreed and pointed out that Walker merely discloses applying the customization of an interface to a network or environment with a single type of data terminal. The Examiner, in response, contended that Walker suggests that the preference data, which represents a preferred operation by the user of the slot

machine, can be used in either a slot machine or a data terminal, and therefore suggests that the preference data could be used on different types of machines (see Interview Summary, Continuation Sheet, page 3). Applicants respectfully disagreed.

III. Summary of Applicants' Reply to Office Action

Claims 1, 16-18, 20, 28, 29, 31 and 34 have been amended. Claims 19 and 30 have been cancelled without prejudice.

Applicants respectfully submit that the subject matter of amended claims 1, 16-18, 20, 28, 29, 31 and 34 are fully supported by the originally-filed specification. No new subject matter has been added.

The Examiner's rejections are respectfully traversed.

IV. Applicants' Reply to the Rejection of the Claims

The rejections set forth in the February 24, 2004 Final Office Action are under 35 U.S.C. § 103(a) and are based on applicants' claims being unpatentable over Walker.

Applicants' amended independent claims 1, 16 and 34 are directed towards providing a consistent wagering interface on different types of wagering platforms. As amended, a first type of wagering platform and a second type of wagering platform are provided where the first type of wagering platform and the

second type of wagering platform are selected from the group consisting of a television platform, a computer platform and a telephone platform. The second type of wagering platform is different than the first type of wagering platform (e.g., the first type can be a television platform while the second type can be a computer platform). A first wagering interface is configured on the first type of wagering platform for use by a wagerer. A configuration of the first wagering interface is stored. A second wagering interface is displayed on the second type of wagering platform for use by the wagerer. The second wagering interface is consistent with the configuration of the first wagering interface.

Walker refers generally to a gaming system and method that allows casino players the ability to customize slot machines according to the player's playing preferences (Walker, col. 2, lines 13-20). Slot machines are networked to a central server that stores information about a player's preferences. When a player inserts a player tracking card into a slot machine, identification data stored on the player tracking card is transmitted to the central server. The central server accesses and transmits the associated player preferences to the slot machine. The slot machine configures the game to operate

based on the player preferences that it receives (Walker, abstract, lines 1-8; col. 3, lines 33-41).

The Examiner contends that Walker, taken together with what would have been obvious to a person of ordinary skill in the art, teaches providing a consistent wagering interface on a first type of wagering platform and a second type of wagering platform, as defined by applicants' independent claims 1, 16 and 34 (see February 24, 2004 Office Action, pages 2-3). The Examiner, however, concedes that Walker does not explicitly teach that the second type of wagering platform is different than the first type of wagering platform. To address this deficiency, the Examiner then contends that Walker, in column 9, lines 15-35, suggests that the invention "can be used in different game machines of different environment and different type of games" (February 24, 2004 Office Action, Response to Argument, page 4). In addition, during the interview, the Examiner contended that "Walker suggests that a data terminal and one or more slot machines can be networked to a central server, and preferences data can be used in either a slot machine or a data terminal" and that "Walker obviously encompasses suggesting that the preferences data could be used

on different type of machines" (Interview Summary, Continuation Sheet, page 3).

Applicants respectfully disagree with the Examiner's conclusion, but in the interest of advancing prosecution of this case, applicants have amended independent claims 1, 16 and 34. Applicants' amendments more particularly define the first type of wagering platform and the second type of wagering platform to be selected from the group consisting of a television platform, a computer platform and a telephone platform, where the first type of wagering platform and the second type of wagering platform are different. Additionally, applicants' amended independent claims 1, 16 and 34 recite that the first wagering interface and the second wagering interface are used by a wagerer.

Applicants respectfully submit that Walker does not show or suggest a first type of wagering platform and a second type of wagering platform selected from the group consisting of a television platform, a computer platform and a telephone platform, where the first type of wagering platform and the second type of wagering platform are different, as recited in independent claims 1, 16 and 34. Walker describes a slot machine and a data terminal, but does not show or suggest that

the slot machine or data terminal can be one of a television platform, a computer platform or a telephone platform. Walker also does not show or suggest that the slot machine and data terminal are considered different types of wagering platforms.

In addition, applicants' claims 1, 16 and 34 recite that the second wagering interface is consistent with the configuration of the first wagering interface, where the first wagering interface and the second wagering interface are for use by the same wagerer. The wagering interfaces are configured to be consistent so that after the configuration of the first wagering interface on the first type of wagering platform (e.g., television platform) for use by a wagerer is stored, the same preferences can be retrieved on the wagerer's subsequent access of the second wagering interface on the second type of wagering platform (e.g., computer platform) (see Applicants' Specification, page 3, lines 4-29). Although Walker discloses a slot machine and a data terminal, the slot machine is for use by a wagerer while the data terminal is for use by a dealer (see Walker, column 2, lines 13-21 and column 9, lines 21-26), and therefore does not have the advantage of being used by the same wagerer, as recited in applicants' claims 1, 16 and 34.

Applicants respectfully submit that the 35 U.S.C. § 103(a) rejection must also be withdrawn for the following additional reasons. The preferred embodiment of the Walker system allows a player to customize only a slot machine interface according to the player's playing preferences. When the player accesses a slot machine game at different slot machines (i.e., multiple data terminals), the interface is displayed according to the player's preferences. Therefore, these slot machines are all displaying a single wagering interface on a single type of wagering platform.

Walker describes alternative embodiments in which the customization feature in the preferred embodiment can be applied to other environments with one or more data terminals (see, Walker, column 9, lines 27-30). Applicants submit that Walker does not show or suggest that the customization can be applied to an environment that includes different types of data terminals (i.e., different types of wagering platforms where the different types of wagering platforms are selected from the group consisting of a television platform, a computer platform and a telephone platform). Rather, Walker refers to applying the concept of customization of an interface to a different network where each data terminal is based on a single platform.

This is shown in the examples of other environments that this concept can be applied to:

> For example, the invention could be readily modified to apply to networked video game systems, systems with point-of-sale terminals, and automatic teller machines (ATM).

(Walker, column 9, lines 30-32). Here, Walker discloses that other than applying the customization of a wagering interface to a network of slot machines, as in the preferred embodiment, the concept of customization can also be applied individually to a network of a type of video game, to a network of point-of-sale terminals, or to a network of automatic teller machines. Applicants submit that there is nothing in Walker that shows or suggests that these different types of systems can be included in a single network or environment.

Furthermore, these embodiments are disclosed as being *alternative* embodiments. Being alternative embodiments means that a choice is provided for two or more mutually exclusive things and only one is selected. As alternative embodiments, these different environments or networks are not combined. Applicants submit that this in fact teaches away from the Examiner's improper proposition that Walker discloses providing data on different wagering platforms.

Moreover, applicants respectfully submit that the Examiner has failed to point to any suggestion or motivation to modify Walker to include the features of applicants' invention, as defined by amended independent claims 1, 16 and 34. In particular, the Examiner merely relies on conclusions of obviousness instead of providing objective evidence of a motivation to combine:

> "[i]t would have been obvious to a person of ordinary skill in the art at the time the invention was made to display the wagering configuration on the second game machine that is different type with first game machine in order to allow the player to retain the same configuration the player selects on the first platform"

(February 24, 2004 Office Action, page 3). However, it is required that "[e]ven when obviousness is based on a single prior art reference, there *must* be a showing of a suggestion to modify the teachings of that reference." In re Kotzab, 55 U.S.P.Q. at 1316-1317 (emphasis added).

In addition, the Examiner claims that ". . . the motivation to [modify the reference] is within the knowledge generally available to one of ordinary skill in the art." Applicants submit that the Examiner's use of taking Official Notice by declaring what is within knowledge available to one of ordinary skill in the art, and thus obvious, is improper. The

Examiner may only take Official Notice of facts outside of the record which are "capable of instant and unquestionable demonstration as being 'well known' in the art" (MPEP § 2144.03). Furthermore, there is no objective basis to conclude that the particular approach of "displaying a second wagering interface on a second type of wagering platform, wherein the second wagering interface is consistent with the configuration of the first wagering interface" and where "the first type of wagering platform and the second type of wagering platform are selected from the group consisting of a television platform, a computer platform, and a telephone platform, and wherein the second type of wagering platform is different than the first type of wagering platform" is well known, or within the knowledge generally available to one of ordinary skill in the art. Applicants also respectfully submit that the absence from the prior art of record showing applicants' claimed approach belies the Examiner's assertion of Official Notice. If the Examiner insists on maintaining this rejection, applicants respectfully request that the Examiner provide a reference in support of the Official Notice used in rejecting claims 1, 16 and 34, as is applicants' right under MPEP § 2144.03.

For at least the foregoing reasons, independent claims 1, 16 and 34 are in condition for allowance. Claims 2-15 are dependent from claim 1 and are allowable at least because claim 1 is allowable. Claims 17, 18, 20-29 and 31-33 are dependent from claim 16 and are allowable at least because claim 16 is allowable. Claims 35-48 are dependent from claim 34 and are allowable at least because claim 34 is allowable.

Applicants respectfully submit that the rejection of the claims be withdrawn.

V. Conclusion

The foregoing demonstrates that claims 1-18, 20-29 and 31-48 are patentable. This application is therefore in condition for allowance. Reconsideration and allowance are accordingly respectfully requested.

Respectfully submitted,

Evelyn C. Mak

Evelyn C. Mak
Reg. No. 50,492
Agent for Applicants
FISH & NEAVE
Customer No. 1473
1251 Avenue of the Americas
New York, New York 10020-1105
Tel.: (212) 596-9000
Fax: (212) 596-9090